

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7561 OF 2005

Shyamji Nagaria Seth & Anr. ... Petitioners

V/s.

Shyamlal N. Bharati & Ors. ... Respondents

Ms.Pallavi Divekar for Petitioners

Mr.Indrajeet R. Kulkarni for Respondent No.1

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JUNE 29, 2007**

P.C.:

. The Petitioners challenge the award dated 19.10.2004 in Reference (IDA) No.154 of 1997. By this award, the Labour Court granted the respondent reinstatement with continuity of service and full backwages w.e.f. 27.10.1995. The main contention of the learned advocate for the Petitioners is that the Petitioners had no connection with the business and, therefore, they ought not to have been made liable to reinstate the respondent workmen. It is submitted that it was for the workmen to prove that they had an employer-employee relationship with the Petitioners and having failed to do so, the respondents cannot be entitled to any relief against the Petitioners. Reliance is placed by the learned Advocate for the Petitioners on the judgement of the Supreme Court in the case of *The Range Forest Officer v/s. S.T. Hadimani*,

(Civil Appeal Nos.1283 and 1284 of 2002) and on the judgment of the Bombay High Court in the case of *N.Nursing Home Pvt. Ltd., Bombay & Anr. v/s. Z.H. Rahina (Dr.) (Mrs.) & Anr.*, 2001 II CLR 155 in support of her submissions.

2. The Labour Court has found that the first Petitioner who is examined in this case has stated on oath that the looms where the respondent workmen were employed were owned by him and his wife, however, he sold his looms five years earlier and, therefore, had no concern with the business. The Petitioners did not produce any documentary evidence on record to indicate that they had sold the looms to one Pottiya or that they had given the said powerlooms on rental basis to Pottiya.

3. In such circumstances, it could not be said that the Labour Court has erred in holding the Petitioners liable. There is no error apparent on the face of the record requiring interference. The Respondent workmen have stated on oath that they were employed with the Petitioners. It was then for the Petitioners to prove by documentary evidence that they had no connection with the business as the looms which were owned by them are rented to somebody else. Petition rejected.